

District Judge Robert J. Bryan

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,

v.
MICHAEL JOHN SCOTT,
Defendant.

CASE NO. CR20-018RJB

JOINT STATUS REPORT

Pursuant to the Court's Order of September 3, 2020 (Dkt. 16), the United States of America, by and through Assistant United States Attorneys Marci L. Ellsworth and Karyn S. Johnson, and Defendant, Michael John Scott, by and through his attorney of record, Amy I. Muth, file this Joint Status Report with the Court regarding the factual/procedural history of this matter. The United States is proposing a trial date of March 22, 2021, with a pretrial motions date of January 22, 2021.

On January 30, 2020, agents with the Drug Enforcement Administration arrested Defendant on probable cause to believe he had committed two drug trafficking crimes.¹ The United States filed a two-count criminal complaint against Defendant the next day, Dkt. 1, and a Grand Jury subsequently returned a four-count indictment on February 13, 2020. Dkt.

¹ One week earlier (on January 24, 2020), United States District Court Judge Ronald B. Leighton had sentenced Defendant to a 78-month term of imprisonment for his role in a drug trafficking conspiracy, *see* cause number CR18-5579, but had not ordered Defendant remanded.

1 5. A jury trial was originally set to begin, before United States District Court Judge Ronald
2 B. Leighton, on April 20, 2020. However, given the Court's closure (then through June 1,
3 2020), Judge Leighton vacated the trial date (finding, consistent with General Order 02-20,
4 the "ends of justice" outweighed the interests of Defendant and the public in a speedy trial).
5 Dkt. 11. Judge Leighton further ordered that the trial date "be adjusted accordingly" upon
6 the reopening of the Court. *Id.* Defendant then filed an objection, asserting his right to a
7 speedy trial and objecting to any continuance of the trial date past April 20, 2020. Dkt. 12.
8 Defendant remains in custody (he stipulated to detention), and is currently considered (by the
9 Bureau of Prisons) to be serving the 78-month sentence imposed in CR18-5579.

10 At this time, there is no trial date set in this matter. The parties have conferred about
11 a realistic trial date and their respective obligations in other matters pending before the Court
12 and (for defense counsel) in state court. The parties have also conferred about defense
13 counsel's limited ability to confer with Defendant while he remains at SeaTac FDC (due to
14 COVID-19 precautions taken by the facility), and also recognize that the Bureau of Prisons
15 may, at any point, decide to transfer Defendant to Sheridan FCI (where Defendant has been
16 designated to serve the sentence imposed in CR18-5579). Counsel for Defendant has
17 represented that Defendant will not waive speedy trial, and objects to the trial date setting the
18 United States is proposing.

19 The Court remains closed through at least October 5, 2020. State and local directives,
20 and the phased re-opening of businesses and other activities, remain in place. Pierce County
21 has been in Phase 2 (of four) since June 5, 2020. This phase requires the continued use of
22 stringent social distancing measures such as leaving at least six feet between people, using
23 face masks, and continuing to encourage any vulnerable individual to avoid public spaces.
24 Consistent with these health directives, even if jury service is a basis for requiring people to
25 leave their homes, the recommended social distancing measures would make it extremely
26 difficult, if not impossible, to select a jury and proceed with a trial while allowing all
27 participants to remain at the recommended six foot distance. Because of the nature of the
28 jury selection process, it would also be difficult to comply with the type of cleaning

1 protocols that would be required if jury selection were to take place. Moreover, the Court is
 2 not equipped to provide the type of personal protective supplies that would be necessary to
 3 ensure the health and safety of the Jurors, the defendant, the lawyers, the United States
 4 Marshals, the court personnel, the public and the Court if normal procedures were used.

5 Because it remains unclear when the Court will re-open for in-person hearings (and
 6 trials) and when proceeding with a trial would not place the health and safety of all
 7 participants at risk, and to accommodate counsel availability, the United States is asking the
 8 Court to set a trial date of March 22, 2021, with a pretrial motions deadline at least 60 days
 9 in advance of that date. Defense counsel has confirmed her availability for that setting,
 10 should the Court decide to set the trial at that time.

11 As noted in the Court's Order, the time between entry of Judge Leighton's Order
 12 vacating the April 20, 2020, trial date (Dkt. 11) and entry of an Order by this Court setting a
 13 new trial date, is excluded under the Speedy Trial Act pursuant to 18 U.S.C.
 14 § 3161(h)(7)(A).

15 Respectfully submitted this 16th day of September, 2020.

17 /s/ Marci L. Ellsworth
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